

Title 17-A: MAINE CRIMINAL CODE

Chapter 45: DRUGS

Table of Contents

Part 2. SUBSTANTIVE OFFENSES.....	
Section 1101. DEFINITIONS.....	3
Section 1102. SCHEDULES W, X, Y AND Z.....	6
Section 1103. UNLAWFUL TRAFFICKING IN SCHEDULED DRUGS.....	13
Section 1104. TRAFFICKING IN OR FURNISHING COUNTERFEIT DRUGS.....	15
Section 1105. AGGRAVATED TRAFFICKING, FURNISHING OR CULTIVATION OF SCHEDULED DRUGS (REPEALED).....	15
Section 1105-A. AGGRAVATED TRAFFICKING OF SCHEDULED DRUGS.....	16
Section 1105-B. AGGRAVATED TRAFFICKING OR FURNISHING OF COUNTERFEIT DRUGS.....	18
Section 1105-C. AGGRAVATED FURNISHING OF SCHEDULED DRUGS.....	19
Section 1105-D. AGGRAVATED CULTIVATING OF MARIJUANA.....	21
Section 1106. UNLAWFULLY FURNISHING SCHEDULED DRUGS.....	23
Section 1106-A. AGGREGATION OF AMOUNTS OF DRUGS SEIZED.....	25
Section 1107. UNLAWFUL POSSESSION OF SCHEDULED DRUGS (REPEALED).....	25
Section 1107-A. UNLAWFUL POSSESSION OF SCHEDULED DRUGS.....	26
Section 1108. ACQUIRING DRUGS BY DECEPTION.....	27
Section 1109. STEALING DRUGS.....	29
Section 1110. TRAFFICKING IN OR FURNISHING HYPODERMIC APPARATUSES.....	29
Section 1111. ILLEGAL POSSESSION OF HYPODERMIC APPARATUSES.....	30
Section 1111-A. USE OF DRUG PARAPHERNALIA.....	30
Section 1112. ANALYSIS OF SCHEDULED DRUGS.....	34
Section 1113. INSPECTION OF RECORDS (REPEALED).....	34
Section 1114. SCHEDULE Z DRUGS; CONTRABAND SUBJECT TO SEIZURE.....	34
Section 1115. NOTICE OF CONVICTION.....	34
Section 1116. TRAFFICKING OR FURNISHING IMITATION SCHEDULED DRUGS.....	35
Section 1117. CULTIVATING MARIJUANA.....	36
Section 1118. ILLEGAL IMPORTATION OF SCHEDULED DRUGS.....	37
Section 1119. UNLAWFUL POSSESSION OF SYNTHETIC HALLUCINOGENIC DRUGS (REPEALED).....	37
Section 1120. UNLAWFUL TRAFFICKING IN SYNTHETIC HALLUCINOGENIC DRUGS (REPEALED).....	37
Section 1121. AGGRAVATED TRAFFICKING IN SYNTHETIC HALLUCINOGENIC DRUGS (REPEALED).....	37
Section 1122. UNLAWFULLY FURNISHING SYNTHETIC HALLUCINOGENIC DRUGS (REPEALED).....	37

Section 1123. AGGRAVATED FURNISHING OF SYNTHETIC HALLUCINOGENIC DRUGS (REPEALED).....	38
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Maine Revised Statutes
Title 17-A: MAINE CRIMINAL CODE
Chapter 45: DRUGS

§1101. DEFINITIONS

As used in this Title, the following words shall, unless the context clearly requires otherwise, have the following meanings. [1975, c. 499, §1 (NEW) .]

1. "Marijuana" includes the leaves, stems, flowers and seeds of all species of the plant genus cannabis, whether growing or not; but shall not include the resin extracted from any part of such plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin including hashish and further, shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks, fiber, oil or cake or the sterilized seed of such plant which is incapable of germination.

[1975, c. 740, §96 (AMD) .]

1-A.

[2013, c. 341, §1 (RP) .]

1-B.

[2013, c. 341, §2 (RP) .]

2. "Hypodermic apparatus," hypodermic syringe, hypodermic needle or any instrument designed or adapted for the administration of any drug by injection.

[1975, c. 499, §1 (NEW) .]

3. "Isomer," the optical isomer, except wherever appropriate, the optical, position or geometric isomer.

[1975, c. 499, §1 (NEW) .]

3-A.

[2013, c. 341, §3 (RP) .]

3-B.

[2013, c. 341, §4 (RP) .]

4. "Manufacture," to produce, prepare, propagate, compound, convert or process, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis.

[1975, c. 499, §1 (NEW) .]

4-A. "Methamphetamine precursor drug" means any drug or product possessed by a person that contains in the aggregate a quantity of more than 9 grams of ephedrine, pseudoephedrine or phenylpropanolamine or their salts, isomers or salts of isomers, either alone or in combination with other ingredients, in dry or solid nonliquid form.

[2005, c. 430, §1 (NEW); 2005, c. 430, §10 (AFF) .]

5. "Hashish" includes the resin extracted from any part of the cannabis plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin.

[1975, c. 499, §1 (NEW) .]

6. "Narcotic drug," any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

A. Opium and any opiate, and any salt, compound, derivative or preparation of opium or opiate;

[1975, c. 499, §1 (NEW) .]

B. Any salt, compound, isomer, ester, ether, derivative or preparation thereof which is chemically equivalent or identical to or with any of the substances referred to in paragraph A, but not including the isoquinoline alkaloids of opium; or [1975, c. 499, §1 (NEW) .]

C. Opium poppy and poppy straw. [1975, c. 499, §1 (NEW) .]

[1975, c. 499, §1 (NEW) .]

7. "Opiate."

A. Any substance having an analgesic and addiction forming or addiction sustaining property or liability similar to morphine or capable of conversion into a drug having such analgesic and addiction forming or addiction sustaining property or liability. [1975, c. 499, §1 (NEW) .]

B. This term does not include, unless specifically designated or listed in Schedule W, X, Y or Z, the dextrorotatory isomer or 3-methoxy-n-methyl-morphinan and its salts, dextromethorphan, but does include its racemic and levorotatory forms. [1975, c. 499, §1 (NEW) .]

[1975, c. 499, §1 (NEW) .]

8. "Opium poppy," the plant of the species *Papaver somniferum* L., except its seeds.

[1975, c. 499, §1 (NEW) .]

9. "Poppy straw," all parts, except the seeds, of the opium poppy, after mowing.

[1975, c. 499, §1 (NEW) .]

10. "Prescription drug" means a drug which:

A. Under federal law is required, prior to being dispensed or delivered, to be labeled with either of the following statements:

(1) "Caution: Federal law prohibits dispensing without prescription."; or

(2) "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian."; or

[1989, c. 384, §1 (NEW) .]

B. Is required by an applicable federal or state law or rule to be dispensed on prescription only or is restricted to use by practitioners only. [1989, c. 384, §1 (NEW).]

[1989, c. 384, §1 (RPR) .]

11. "Scheduled drug," any drug named or described in section 1102, schedule W, X, Y or Z.

[1975, c. 499, §1 (NEW) .]

12. "Schedule W drug," any drug named, listed or described in section 1102, schedule W.

[1975, c. 499, §1 (NEW) .]

13. "Schedule X drug," any drug named, listed or described in section 1102, schedule X.

[1975, c. 499, §1 (NEW) .]

14. "Schedule Y drug," any drug named, listed or described in section 1102, schedule Y.

[1975, c. 499, §1 (NEW) .]

15. "Schedule Z drug," any drug named, listed or described in section 1102, schedule Z.

[1975, c. 499, §1 (NEW) .]

16. "State laboratory," a laboratory of any state agency which is capable of performing any or all of the analyses that may be required to establish that a substance is a scheduled or a counterfeit drug, including, but not limited to, the laboratory of the State Department of Health and Human Services and any such laboratory that may be established within the Department of Public Safety.

[1975, c. 499, §1 (NEW); 2003, c. 689, Pt. B, §6 (REV) .]

16-A.

[2013, c. 194, §5 (RP) .]

17. "Traffick":

A. To make, create, manufacture; [1975, c. 499, §1 (NEW).]

B. To grow or cultivate, except for marijuana; [1999, c. 374, §1 (AMD).]

C. To sell, barter, trade, exchange or otherwise furnish for consideration; [1999, c. 453, §1 (AMD) .]

D. To possess with the intent to do any act mentioned in paragraph C; or [1999, c. 453, §2 (AMD) .]

E. To possess 2 grams or more of heroin or 90 or more individual bags, folds, packages, envelopes or containers of any kind containing heroin. [1999, c. 453, §3 (NEW).]

[1999, c. 374, §1 (AMD); 1999, c. 453, §§1-3 (AMD) .]

18. "Furnish:"

A. To furnish, give, dispense, administer, prescribe, deliver or otherwise transfer to another; [1975, c. 499, §1 (NEW).]

B. To possess with the intent to do any act mentioned in paragraph A; or [1999, c. 453, §4 (AMD).]

C. To possess at least one gram but less than 2 grams of heroin or at least 45 but fewer than 90 individual bags, folds, packages, envelopes or containers of any kind containing heroin. [1999, c. 453, §5 (NEW).]

[1999, c. 453, §§4, 5 (AMD).]

19. "Imitation scheduled drug," a substance that is not a scheduled drug and which was not obtained by valid medical prescription, but which, by dosage unit appearance or by representations made, would lead a reasonable person to believe that the substance was a scheduled drug.

[1981, c. 603, §1 (NEW).]

20. "Dosage unit," that unit of measurement which is equivalent to an average adult dose.

[1981, c. 603, §1 (NEW).]

21. "Cultivate" means to sow a seed; to grow, raise or tend a plant; to harvest a plant; or to knowingly possess a plant.

[1999, c. 239, §1 (NEW).]

22. "Industrial hemp" means any variety of *Cannabis sativa* L. with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3% on a dry weight basis and that is grown under a federal permit in compliance with the conditions of that permit.

[2003, c. 61, §1 (NEW).]

23. "Safe zone" means an athletic field, park, playground or recreational facility that is designated as a safe zone by a municipality pursuant to Title 30-A, section 3253.

[2005, c. 415, §1 (NEW).]

SECTION HISTORY

1975, c. 293, §4 (AMD). 1975, c. 499, §1 (NEW). 1975, c. 740, §§96,97 (AMD). 1977, c. 647, §1 (AMD). 1981, c. 603, §1 (AMD). 1983, c. 775, (AMD). 1989, c. 384, §1 (AMD). 1997, c. 481, §1 (AMD). 1999, c. 239, §1 (AMD). 1999, c. 374, §1 (AMD). 1999, c. 453, §§1-5 (AMD). 2003, c. 61, §1 (AMD). 2003, c. 689, §B6 (REV). 2005, c. 415, §1 (AMD). 2005, c. 430, §1 (AMD). 2005, c. 430, §10 (AFF). 2011, c. 428, §§1-4 (AMD). 2011, c. 428, §9 (AFF). 2011, c. 465, §5 (AMD). 2011, c. 578, §§1, 2 (AMD). 2013, c. 194, §5 (AMD). 2013, c. 341, §§1-4 (AMD).

§1102. SCHEDULES W, X, Y AND Z

For the purposes of defining crimes under this chapter and of determining the penalties therefor, there are hereby established the following schedules, designated W, X, Y and Z. [2001, c. 419, §2 (AMD).]

1. Schedule W:

A. Unless listed or described in another schedule, any amphetamine, or its salts, isomers, or salts of isomers, including but not limited to methamphetamine, or its salts, isomers, or salts of isomers; [1975, c. 499, §1 (NEW).]

B. Unless listed or described in another schedule, or unless made a nonprescription drug by federal law, barbituric acid or any derivative of barbituric acid, or any salt of barbituric acid or of a derivative of barbituric acid, including but not limited to amobarbital, butabarbital, pentobarbital, secobarbital, thiopental, and methohexital; [1975, c. 499, §1 (NEW).]

C. [1975, c. 740, §98 (RP).]

D. [1975, c. 740, §98 (RP).]

E. [1975, c. 740, §98 (RP).]

F. Cocaine means:

(1) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine and derivatives of ecgonine and their salts have been removed; and

(2) A mixture or preparation that contains any quantity of any of the following substances:

(a) Cocaine, its salts, optical and geometric isomers and salts of isomers;

(b) Ecgonine, its derivatives, their salts, isomers and salts of isomers; or

(c) Cocaine base, which is the alkaloid form of cocaine; [1995, c. 635, §1 (RPR).]

G. Phenmetrazine and its salts; [1975, c. 499, §1 (NEW).]

H. Methylphenidate or its salts; [1975, c. 740, §99 (RPR).]

I. Unless listed or described in another schedule, any compound, mixture or preparation containing narcotic drugs, including, but not limited to, the following narcotic drugs or their salts, isomers or salts of isomers: heroin (diacetylmorphine), methadone, methadone hydrochloride, levo-alpha-acetyl-methadol, or LAAM, pethidine, morphine, oxycodone, hydrocodone, hydromorphone, fentanyl and opium; [2007, c. 55, §1 (RPR).]

J. Phencyclidine; [1989, c. 924, §2 (AMD).]

K. Lysergic acid diethylamide, and its salts, isomers and salts of isomers; [1989, c. 924, §3 (NEW).]

L. Lysergic acid; [1997, c. 487, §1 (AMD).]

M. Lysergic acid amide; [2001, c. 419, §4 (AMD).]

N. Flunitrazepam or its chemical equivalent; [2013, c. 194, §6 (AMD).]

O. Unless listed or described in another schedule, the following hallucinogenic drugs or their salts, isomers and salts of isomers whenever the existence of the salts, isomers and salts of isomers is possible within the chemical designation:

(1) 3, 4 - methylenedioxy amphetamine, MDA;

(2) 5 methoxy - 3, 4 methylenedioxy amphetamine, MMDA;

(3) 3, 4, 5 - trimethoxy amphetamine, TMA;

(4) 4 - methyl - 2, 5 - dimethoxyamphetamine, DOM;

(5) 2, - 3 methylenedioxyamphetamine;

(6) 2, 5 - dimethoxyamphetamine, DMA;

(7) 4 - bromo - 2, 5 - dimethoxyamphetamine, DOB;

(8) 4 methoxyamphetamine;

(9) 3, 4 - methylenedioxymethamphetamine, MDMA;

(10) 4 - bromo - 2, 5 - dimethoxyphenethylamine, NEXUS;

(11) 3, 4 - methylenedioxy-N-ethylamphetamine, MDE;

- (12) Paramethoxymethamphetamine, PMMA;
- (13) Paramethoxyamphetamine, PMA; and
- (14) Paramethoxyethylamphetamine, PMEAA ; and [2013 , c . 194 , §7 (AMD) .]

P. Unless listed or described in another schedule, the following synthetic hallucinogenic drugs:

- (1) 3, 4 - methylenedioxymethcathinone, MDMC;
- (2) 3, 4 - methylenedioxypyrovalerone, MDPV;
- (3) 4 - methylmethcathinone, 4-MMC;
- (4) 4 - methoxymethcathinone, bk-PMMA, PMMC;
- (5) 3 - fluoromethcathinone, FMC;
- (6) 4 - fluoromethcathinone, FMC;
- (7) Naphthylpyrovalerone, NRG-1;
- (8) Beta-keto-N-methylbenzodioxolylpropylamine;
- (9) 4 - methylethcathinone, 4-MEC;
- (10) Butylone;
- (11) Eutylone;
- (12) Pentedrone;
- (13) Pentylone;
- (14) 2, 5 - dimethoxy-4-ethylphenethylamine; or
- (15) A derivative of cathinone, including any compound, material, mixture, preparation or other product, structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl or thiophene ring systems, whether or not the compound is further modified in any of the following ways:
 - (a) By substitution in the ring system to any extent with alkyl, alkylendioxy, alkoxy, haloalkyl, hydroxyl or halide substituents, whether or not further substituted in the ring system by one or more other univalent substituents;
 - (b) By substitution at the 3-position with an acyclic alkyl substituent; or
 - (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl or methoxybenzyl groups or by inclusion of the 2-amino nitrogen atom in a cyclic structure.

This subparagraph does not include a drug listed in section 1102 or a drug approved by the United States Food and Drug Administration. [2013 , c . 194 , §8 (NEW) .]

[2013 , c . 194 , §§6-8 (AMD) .]

2. Schedule X:

A. Unless listed or described in another schedule, any of the following drugs having depressant effect on the central nervous system

- (1) Chlorhexadol
- (2) Sulfondiethylmethane
- (3) Sulfonethylmethane
- (4) Sulfonmethane [1975 , c . 499 , §1 (NEW) .]

B. Nalorphine; [1975 , c . 499 , §1 (NEW) .]

C. Unless listed in another schedule, any of the following hallucinogenic drugs, or their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation

- (1) Bufotenine
- (2) Ibogaine
- (3) Mescaline, including but not limited to peyote
- (4) N-methyl-3-piperidyl benzilate
- (5) N-ethyl-3-piperidyl benzilate
- (6) Psilocybin
- (7) Psilocyn
- (8) Hashish; [1977, c. 649, §2 (AMD).]

D. [2001, c. 419, §7 (RP).]

E. Methaqualone or its salts; [1975, c. 499, §1 (NEW).]

F. Methprylon; [1975, c. 499, §1 (NEW).]

G. Glutethimide. [1975, c. 499, §1 (NEW).]

H. Unless listed or described in another schedule, the following hallucinogenic drugs or their salts, isomers and salts of isomers whenever the existence of the salts, isomers and salts of isomers is possible within the specific chemical designation:

- (5) Diethyltryptamine, DET;
- (6) Dimethyltryptamine, DMT;
- (7) Dipropyltryptamine, DPT; and
- (12) Alpha-ethyltryptamine, AET. [2001, c. 419, §8 (AMD).]

I. [1989, c. 924, §5 (RP).]

J. [1989, c. 924, §6 (RP).]

K. Diethylpropion or its salts; [2001, c. 419, §9 (AMD).]

L. Gamma hydroxybutyrate, GHB, and its salts, isomers and salts of isomers; [2001, c. 419, §10 (NEW).]

M. Ketamine and its salts, isomers and salts of isomers; and [2001, c. 419, §10 (NEW).]

N. The following substances, if intended for human ingestion:

- (1) Gamma butyrolactone, GBL, and its salts, isomers and salts of isomers; or
- (2) One, 4-butanediol, BD, and its salts, isomers and salts of isomers. [2001, c. 419, §10 (NEW).]

[2001, c. 419, §§7-10 (AMD) .]

3. Schedule Y:

- A. Barbitol or its salts; [1975, c. 740, §101 (AMD).]
- B. Chloral betaine; [1975, c. 499, §1 (NEW).]
- C. Ethchlorvynol; [1975, c. 499, §1 (NEW).]
- D. Ethinamate; [1975, c. 499, §1 (NEW).]
- E. Methohexital or its salts; [1975, c. 740, §101 (AMD).]

F. Methylphenobarbital or its salts; [1975, c. 740, §101 (AMD).]

G. Paraldehyde; [1975, c. 499, §1 (NEW).]

H. Petrichloral; [1975, c. 499, §1 (NEW).]

I. Phenobarbital or its salts; [1975, c. 740, §101 (AMD).]

J. Codeine (methymorphine) or its salts; [1975, c. 740, §101 (AMD).]

K. Any compound, mixture or preparation containing any of the following limited quantities of narcotic drugs, which shall include one or more nonnarcotic active medicinal ingredient in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone

(1) not more than 2.5 milligrams of diphenoxylate with not less than 25 micrograms of atropin sulfate per dosage unit; [1975, c. 499, §1 (NEW).]

L. Meprobamate; [1975, c. 740, §101 (AMD).]

M. Ergot or any salt, compound or derivative of ergot unless listed in another schedule; [1975, c. 740, §101 (AMD).]

N. Flurazepam or its salts; [1975, c. 499, §1 (NEW).]

O. Chlordiazepoxide or its salts; [1975, c. 499, §1 (NEW).]

P. Diazepam; [1975, c. 499, §1 (NEW).]

Q. Carbromal; [1975, c. 499, §1 (NEW).]

R. Chloralhydrate; [1975, c. 499, §1 (NEW).]

S. Fenfluramine or its salts; [1975, c. 740, §101 (NEW).]

T. [1977, c. 649, §5 (RP).]

U. Phentermine or its salts. [1975, c. 740, §101 (NEW).]

[1977, c. 649, §5 (AMD) .]

4. Schedule Z:

A. All prescription drugs other than those included in schedules W, X or Y; [1975, c. 499, §1 (NEW) .]

B. Marijuana; [1975, c. 499, §1 (NEW).]

C. All nonprescription drugs other than those included in schedules W, X or Y as the Maine Board of Pharmacy shall duly designate; [1989, c. 924, §7 (AMD); 1997, c. 245, §19 (AMD) .]

D. Butyl nitrite or isobutyl nitrite; [2011, c. 428, §5 (AMD); 2011, c. 428, §9 (AFF) .]

E. A methamphetamine precursor drug; and [2011, c. 428, §6 (AMD); 2011, c. 428, §9 (AFF) .]

F. [2013, c. 341, §5 (RP).]

G. Synthetic cannabinoids, including:

(1) Tetrahydrocannabinols that are naturally contained in a plant of the genus cannabis or a cannabis plant, as well as synthetic equivalents of the substances contained in the cannabis plant or in the resinous extractives of cannabis or synthetic substances, derivatives and their isomers with similar chemical structure and pharmacological activity, including the following:

(a) Delta-1 cis or trans tetrahydrocannabinol and their optical isomers;

- (b) Delta-6 cis or trans tetrahydrocannabinol and their optical isomers; or
 - (c) Delta-3,4 cis or trans tetrahydrocannabinol and their optical isomers;
- (2) Naphthoylindoles, including any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent, including the following:
- (a) 1-Pentyl-3-(1-naphthoyl)indole or JWH-018 or AM-678;
 - (b) 1-Butyl-3-(1-naphthoyl)indole or JWH-073;
 - (c) 1-Pentyl-3-(4-methoxy-1-naphthoyl)indole or JWH-081;
 - (d) 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole or JWH-200;
 - (e) 1-Propyl-2-methyl-3-(1-naphthoyl)indole or JWH-015;
 - (f) 1-Hexyl-3-(1-naphthoyl)indole or JWH-019;
 - (g) 1-Pentyl-3-(4-methyl-1-naphthoyl)indole or JWH-122;
 - (h) 1-Pentyl-3-(4-ethyl-1-naphthoyl)indole or JWH-210;
 - (i) 1-Pentyl-3-(4-chloro-1-naphthoyl)indole or JWH-398; or
 - (j) 1-(5-fluoropentyl)-3-(1-naphthoyl)indole or AM-2201;
- (3) Naphthylmethylinindoles, including any compound containing a H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent, including the following:
- (a) 1-Pentyl-1H-indol-3-yl-(1-naphthyl)methane or JWH-175; or
 - (b) 1-Pentyl-1H-3-yl-(4-methyl-1-naphthyl)methane or JWH-184;
- (4) Naphthoylpyrroles, including any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent, including (5-(2-fluorophenyl)-1-pentylpyrrol-3-yl)-naphthalen-1-ylmethanone or JWH-307;
- (5) Naphthylideneindenes or naphthylmethylinindenes, including any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent, including E-1-[1-(1-Naphthalenylmethylene)-1H-inden-3-yl]pentane or JWH-176;
- (6) Phenylacetylindoles, including any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent, including the following:
- (a) 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole or RCS-8;
 - (b) 1-Pentyl-3-(2-methoxyphenylacetyl)indole or JWH-250;
 - (c) 1-Pentyl-3-(2-methylphenylacetyl)indole or JWH-251; or
 - (d) 1-Pentyl-3-(2-chlorophenylacetyl)indole, or JWH-203;

(7) Cyclohexylphenols, including any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidiny)methyl or 2-(4-morpholinyl)ethyl group, whether or not substituted in the cyclohexyl ring to any extent, and their isomers with similar chemical structure and pharmacological activity, including the following:

- (a) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol or CP 47,497;
- (b) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol or Cannabicyclohexanol or CP 47,497-C8 homologue; or
- (c) 5-(1,1-dimethylheptyl)-2-[(1R,2R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl]-phenol or CP 55,490;

(8) Benzoylindoles, including any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidiny)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent, including the following:

- (a) 1-Pentyl-3-(4-methoxybenzoyl)indole or RCS-4;
- (b) 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole or AM-694; or
- (c) (4-Methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone or WIN-48,098 or Pravadoline; and

(9) The following other unclassified synthetic cannabinoids:

- (a) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol or HU-210;
- (b) (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol or Dexanabinol or HU-211;
- (c) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl-1-naphthalenylmethanone or WIN 55,212-2; or
- (d) (1-(5-fluoropentyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone or XLR-11. [2013, c. 341, §6 (NEW).]

[2013, c. 341, §§5, 6 (AMD) .]

5.

[2013, c. 194, §9 (RP) .]

SECTION HISTORY

1975, c. 499, §1 (NEW). 1975, c. 740, §§98-101 (AMD). 1977, c. 649, §§1-5 (AMD). 1987, c. 747, §§1,2 (AMD). 1989, c. 334, §§1,2 (AMD). 1989, c. 924, §§1-7 (AMD). 1995, c. 499, §2 (AMD). 1995, c. 499, §5 (AFF). 1995, c. 635, §1 (AMD). 1997, c. 245, §19 (AMD). 1997, c. 487, §§1,2 (AMD). 2001, c. 419, §§2-10 (AMD). 2005, c. 430, §§2,3 (AMD). 2005, c. 430, §10 (AFF). 2007, c. 55, §1 (AMD). 2011, c. 428, §§5-7 (AMD). 2011, c. 428, §9 (AFF). 2013, c. 194, §§6-9 (AMD). 2013, c. 341, §§5, 6 (AMD).

§1103. UNLAWFUL TRAFFICKING IN SCHEDULED DRUGS

1.

[2001, c. 383, §156 (AFF); 2001, c. 383, §114 (RP) .]

1-A. Except as provided in subsection 1-B, a person is guilty of unlawful trafficking in a scheduled drug if the person intentionally or knowingly trafficks in what the person knows or believes to be a scheduled drug, which is in fact a scheduled drug, and the drug is:

A. A schedule W drug. Violation of this paragraph is a Class B crime; [2001, c. 383, §115 (NEW); 2001, c. 383, §156 (AFF).]

B. A schedule X drug. Violation of this paragraph is a Class C crime; [2001, c. 383, §115 (NEW); 2001, c. 383, §156 (AFF).]

C. Marijuana in a quantity of 20 pounds or more. Violation of this paragraph is a Class B crime; [2001, c. 383, §115 (NEW); 2001, c. 383, §156 (AFF).]

D. Marijuana and the person grows or cultivates 500 or more plants. Violation of this paragraph is a Class B crime; [2001, c. 383, §115 (NEW); 2001, c. 383, §156 (AFF).]

E. Marijuana in a quantity of more than one pound. Violation of this paragraph is a Class C crime; [2001, c. 383, §115 (NEW); 2001, c. 383, §156 (AFF).]

F. Marijuana and the person grows or cultivates 100 or more plants. Violation of this paragraph is a Class C crime; [2001, c. 383, §115 (NEW); 2001, c. 383, §156 (AFF).]

G. A schedule Y drug. Violation of this paragraph is a Class D crime; or [2001, c. 383, §115 (NEW); 2001, c. 383, §156 (AFF).]

H. A schedule Z drug. Violation of this paragraph is a Class D crime. [2001, c. 383, §115 (NEW); 2001, c. 383, §156 (AFF).]

[2001, c. 383, §115 (NEW); 2001, c. 383, §156 (AFF) .]

1-B. A person is not guilty of unlawful trafficking in a scheduled drug if the conduct that constitutes the trafficking is either:

A. Expressly authorized by Title 22 or Title 32; or [2001, c. 383, §115 (NEW); 2001, c. 383, §156 (AFF).]

B. Expressly made a civil violation by Title 22. [2001, c. 383, §115 (NEW); 2001, c. 383, §156 (AFF).]

[2001, c. 383, §115 (NEW); 2001, c. 383, §156 (AFF) .]

2.

[2001, c. 383, §156 (AFF); 2001, c. 383, §116 (RP) .]

3. Proof that the person intentionally or knowingly possesses any scheduled drug that is in fact of a quantity, state or concentration as provided in this subsection, gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person is unlawfully trafficking in scheduled drugs:

A. More than one pound of marijuana; [1997, c. 481, §3 (AMD).]

B. Fourteen grams or more of cocaine or 4 grams or more of cocaine in the form of cocaine base; [1999, c. 790, Pt. A, §19 (AMD).]

C. [1999, c. 790, Pt. A, §19 (AMD).]

D. Lysergic acid diethylamide in any of the following quantities, states or concentrations:

- (1) Any compound, mixture, substance or solution in a liquid state that contains a detectable quantity of lysergic acid diethylamide;
- (2) Fifty or more squares, stamps, tablets or units of any compound, mixture or substance containing a detectable quantity of lysergic acid diethylamide; or
- (3) Any quantity of any compound, mixture or substance that, in the aggregate, contains 2,500 micrograms or more of lysergic acid diethylamide; [2001, c. 419, §11 (AMD).]

E. Fourteen grams or more of methamphetamine; [2001, c. 419, §12 (AMD).]

F. Ninety or more pills, capsules, tablets, vials, ampules, syringes or units containing any narcotic drug other than heroin; [2001, c. 419, §13 (NEW).]

G. Any quantity of pills, capsules, tablets, units, compounds, mixtures or substances that, in the aggregate, contains 800 milligrams or more of oxycodone or 100 milligrams or more of hydromorphone; or [2001, c. 419, §13 (NEW).]

H. Thirty or more pills, capsules, tablets or units containing 3, 4 - methylenedioxymethamphetamine, MDMA, or any other drug listed in section 1102, subsection 1, paragraph O. [2001, c. 419, §13 (NEW).]

[2001, c. 383, §117 (AMD); 2001, c. 383, §156 (AFF); 2001, c. 419, §§11-13 (AMD).]

4.

[1989, c. 344, §3 (RP).]

5.

[1999, c. 442, §1 (RP).]

6. If a person uses a motor vehicle to facilitate the trafficking of a scheduled drug, the court may, in addition to other authorized penalties, suspend the person's driver's license, permit, privilege to operate a motor vehicle or right to apply for or obtain a license for a period not to exceed 5 years. A suspension may not begin until after any period of incarceration is served. If the court suspends a person's driver's license, permit, privilege to operate a motor vehicle or right to apply for or obtain a license, the court shall notify the Secretary of State of the suspension and the court shall take physical custody of the person's license. The Secretary of State may not reinstate the person's driver's license, permit, privilege to operate a motor vehicle or right to apply for or obtain a license unless the person demonstrates that, after having been released and discharged from any period of incarceration that may have been ordered, the person has served the period of suspension ordered by the court.

[1993, c. 674, §2 (NEW).]

7. It is an affirmative defense to prosecution under this section that the substance trafficked in is industrial hemp.

[2003, c. 61, §2 (NEW).]

SECTION HISTORY

1975, c. 499, §1 (NEW). 1977, c. 647, §§2,3 (AMD). 1979, c. 127, §128 (AMD). 1987, c. 164, §§1,2 (AMD). 1987, c. 535, §§1,2 (AMD). 1989, c. 334, §3 (AMD). 1989, c. 336, (AMD). 1989, c. 344, §1 (AMD). 1989, c. 384, §2 (AMD). 1989, c. 850, §§2,3 (AMD). 1989, c. 924, §§8,9 (AMD). 1991, c. 548, §A10 (AMD). 1993, c. 674, §§1,2 (AMD). 1995, c. 635, §2

(AMD). 1997, c. 481, §§2,3 (AMD). 1999, c. 374, §§2,3 (AMD). 1999, c. 422, §§1-3 (AMD). 1999, c. 442, §1 (AMD). 1999, c. 453, §§6,7 (AMD). 1999, c. 790, §§A19,20 (AMD). 2001, c. 383, §§114-117 (AMD). 2001, c. 383, §156 (AFF). 2001, c. 419, §§11-13 (AMD). 2003, c. 61, §2 (AMD).

§1104. TRAFFICKING IN OR FURNISHING COUNTERFEIT DRUGS

1. A person is guilty of trafficking in or furnishing counterfeit drugs if the person intentionally or knowingly trafficks in or furnishes a substance that the person represents to be a scheduled drug but that in fact is not a scheduled drug but is capable of causing death or serious bodily injury when taken or administered in the customary or intended manner.

[1993, c. 674, §3 (AMD) .]

2. Trafficking in or furnishing counterfeit drugs is a Class C crime.

[1975, c. 499, §1 (NEW) .]

3. If a person uses a motor vehicle to facilitate the trafficking or furnishing of a counterfeit drug, the court may, in addition to other authorized penalties, suspend the person's driver's license, permit, privilege to operate a motor vehicle or right to apply for or obtain a license for a period not to exceed 5 years. A suspension may not begin until after any period of incarceration is served. If the court suspends a person's driver's license, permit, privilege to operate a motor vehicle or right to apply for or obtain a license, the court shall notify the Secretary of State of the suspension and the court shall take physical custody of the person's license. The Secretary of State may not reinstate the person's driver's license, permit, privilege to operate a motor vehicle or right to apply for or obtain a license unless the person demonstrates that, after having been released and discharged from any period of incarceration that may have been ordered, the person has served the period of suspension ordered by the court.

[1993, c. 674, §4 (NEW) .]

SECTION HISTORY

1975, c. 499, §1 (NEW). 1993, c. 674, §§3,4 (AMD).

§1105. AGGRAVATED TRAFFICKING, FURNISHING OR CULTIVATION OF SCHEDULED DRUGS

(REPEALED)

SECTION HISTORY

1975, c. 499, §1 (NEW). 1975, c. 740, §102 (AMD). 1987, c. 535, §3 (AMD). 1989, c. 305, (AMD). 1989, c. 333, §§1,2 (AMD). 1989, c. 383, §§1,2 (AMD). 1989, c. 538, §§1,2 (AMD). 1989, c. 600, §§A2-6 (AMD). 1989, c. 924, §§10,11 (AMD). 1993, c. 674, §5 (AMD). 1995, c. 65, §A58 (AMD). 1995, c. 65, §§A153,C15 (AFF). 1995, c. 635, §§3,4 (AMD). 1999, c. 342, §1 (AMD). 1999, c. 374, §4 (AMD). 1999, c. 417, §§1,2 (AMD). 1999, c. 422, §§4-6 (AMD). 1999, c. 453, §§8-10 (AMD). 1999, c. 531, §§I1-5 (AMD). 2001, c. 383, §156 (AFF). 2001, c. 383, §118 (RP). 2001, c. 419, §§14,15 (AMD). 2001, c. 667, §D21 (AMD). 2001, c. 667, §D36 (AFF).

§1105-A. AGGRAVATED TRAFFICKING OF SCHEDULED DRUGS

1. A person is guilty of aggravated trafficking in a scheduled drug if the person violates section 1103 and:

A. The person trafficks in a scheduled drug with a child who is in fact less than 18 years of age and the drug is:

- (1) A schedule W drug. Violation of this subparagraph is a Class A crime;
- (2) Marijuana in a quantity of 20 pounds or more. Violation of this subparagraph is a Class A crime;
- (3) A schedule X drug. Violation of this subparagraph is a Class B crime;
- (4) Marijuana in a quantity of more than one pound. Violation of this subparagraph is a Class B crime;
- (5) A schedule Y drug. Violation of this subparagraph is a Class C crime; or
- (6) A schedule Z drug. Violation of this subparagraph is a Class C crime; [2001, c. 383, §119 (NEW); 2001, c. 383, §156 (AFF).]

B. At the time of the offense, the person has one or more prior convictions for any Class A, B or C offense under this chapter or for engaging in substantially similar conduct to that of the Class A, B or C offenses under this chapter in another jurisdiction and the drug is:

- (1) A schedule W drug. Violation of this subparagraph is a Class A crime;
- (2) Marijuana in a quantity of 20 pounds or more. Violation of this subparagraph is a Class A crime;
- (3) A schedule X drug. Violation of this subparagraph is a Class B crime;
- (4) Marijuana in a quantity of more than one pound. Violation of this subparagraph is a Class B crime;
- (5) A schedule Y drug. Violation of this subparagraph is a Class C crime; or
- (6) A schedule Z drug. Violation of this subparagraph is a Class C crime.

Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this paragraph, the date of each prior conviction may precede the commission of the offense being enhanced by more than 10 years; [2007, c. 476, §39 (AMD).]

C. [2001, c. 667, Pt. D, §36 (AFF); 2001, c. 667, Pt. D, §22 (RP).]

C-1. At the time of the offense, the person possesses a firearm in the furtherance of the offense, uses a firearm, carries a firearm or is armed with a firearm, and the drug is:

- (1) A schedule W drug. Violation of this subparagraph is a Class A crime;
- (2) Marijuana in a quantity of 20 pounds or more. Violation of this subparagraph is a Class A crime;
- (3) A schedule X drug. Violation of this subparagraph is a Class B crime;
- (4) Marijuana in a quantity of more than one pound. Violation of this subparagraph is a Class B crime;
- (5) A schedule Y drug. Violation of this subparagraph is a Class C crime; or
- (6) A schedule Z drug. Violation of this subparagraph is a Class C crime; [2001, c. 667, Pt. D, §23 (NEW); 2001, c. 667, Pt. D, §36 (AFF).]

D. At the time of the offense, the person trafficks in cocaine in a quantity of 112 grams or more or cocaine in the form of cocaine base in a quantity of 32 grams or more. Violation of this paragraph is a Class A crime; [2001, c. 383, §119 (NEW); 2001, c. 383, §156 (AFF).]

E. At the time of the offense, the person is on a school bus or within 1,000 feet of the real property comprising a private or public elementary or secondary school or a safe zone as defined in section 1101, subsection 23 and the drug is:

- (1) A schedule W drug. Violation of this subparagraph is a Class A crime;
- (2) Marijuana in a quantity of 20 pounds or more. Violation of this subparagraph is a Class A crime;
- (3) A schedule X drug. Violation of this subparagraph is a Class B crime;
- (4) Marijuana in a quantity of more than one pound. Violation of this subparagraph is a Class B crime;
- (5) A schedule Y drug. Violation of this subparagraph is a Class C crime; or
- (6) A schedule Z drug. Violation of this subparagraph is a Class C crime.

For purposes of this paragraph, "school bus" has the same meaning as defined in Title 29-A, section 2301, subsection 5; [2005, c. 415, §2 (AMD).]

F. At the time of the offense, the person enlists or solicits the aid of or conspires with a child who is in fact less than 18 years of age to traffick in a scheduled drug and the drug is:

- (1) A schedule W drug. Violation of this subparagraph is a Class A crime;
- (2) Marijuana in a quantity of 20 pounds or more. Violation of this subparagraph is a Class A crime;
- (3) A schedule X drug. Violation of this subparagraph is a Class B crime;
- (4) Marijuana in a quantity of more than one pound. Violation of this subparagraph is a Class B crime;
- (5) A schedule Y drug. Violation of this subparagraph is a Class C crime; or
- (6) A schedule Z drug. Violation of this subparagraph is a Class C crime; [2001, c. 383, §119 (NEW); 2001, c. 383, §156 (AFF).]

G. At the time of the offense, the person trafficks in methamphetamine or amphetamine in a quantity of 300 or more pills, capsules, tablets or units or 100 grams or more. Violation of this paragraph is a Class A crime; [2011, c. 436, §1 (AMD).]

H. At the time of the offense, the person trafficks in heroin in a quantity of 6 grams or more or 270 or more individual bags, folds, packages, envelopes or containers of any kind containing heroin. Violation of this paragraph is a Class A crime; [2001, c. 667, Pt. D, §24 (AMD); 2001, c. 667, Pt. D, §36 (AFF).]

I. At the time of the offense, the person trafficks in 300 or more pills, capsules, tablets, vials, ampules, syringes or units containing any narcotic drug other than heroin, or any quantity of pills, capsules, tablets, units, compounds, mixtures or substances that, in the aggregate, contains 8,000 milligrams or more of oxycodone or 1,000 milligrams or more of hydromorphone. Violation of this paragraph is a Class A crime; [2003, c. 688, Pt. B, §3 (RPR).]

J. At the time of the offense, the person trafficks in a quantity of 300 or more pills, capsules, tablets or units containing 3, 4-methylenedioxymethamphetamine, MDMA, or any other drug listed in section 1102, subsection 1, paragraph O. Violation of this paragraph is a Class A crime; [2003, c. 688, Pt. B, §3 (RPR).]

K. Death is in fact caused by the use of that scheduled drug and the drug is a schedule W drug. A violation of this paragraph is a Class A crime; or [2003, c. 476, §2 (NEW).]

L. Serious bodily injury is in fact caused by the use of that scheduled drug and the drug is a schedule W drug. A violation of this paragraph is a Class B crime. [2003, c. 476, §2 (NEW).]

[2011, c. 436, §1 (AMD).]

2. If a person uses a motor vehicle to facilitate the aggravated trafficking in a scheduled drug, the court may, in addition to other authorized penalties, suspend the person's driver's license or permit or privilege to operate a motor vehicle or right to apply for or obtain a license for a period not to exceed 5 years. A suspension may not begin until after any period of incarceration is served. If the court suspends a person's driver's license or permit, privilege to operate a motor vehicle or right to apply for or obtain a license, the court shall notify the Secretary of State of the suspension and the court shall take physical custody of the person's license or permit. The Secretary of State may not reinstate the person's driver's license or permit or privilege to operate a motor vehicle or right to apply for or obtain a license unless the person demonstrates that, after having been released and discharged from any period of incarceration that may have been ordered, the person has served the period of suspension ordered by the court.

[2001, c. 383, §119 (NEW); 2001, c. 383, §156 (AFF) .]

3. It is an affirmative defense to prosecution under this section that the substance trafficked in is industrial hemp.

[2003, c. 61, §3 (NEW) .]

SECTION HISTORY

2001, c. 383, §119 (NEW). 2001, c. 383, §156 (AFF). 2001, c. 667, §§D22-25 (AMD). 2001, c. 667, §D36 (AFF). 2003, c. 1, §7 (AMD). 2003, c. 61, §3 (AMD). 2003, c. 476, §§1,2 (AMD). 2003, c. 688, §B3 (AMD). 2005, c. 415, §2 (AMD). 2007, c. 476, §39 (AMD). 2011, c. 436, §1 (AMD).

§1105-B. AGGRAVATED TRAFFICKING OR FURNISHING OF COUNTERFEIT DRUGS

1. A person is guilty of aggravated trafficking in or furnishing a counterfeit drug if the person violates section 1104 and:

A. The person trafficks in a counterfeit drug with or furnishes a counterfeit drug to a child who is in fact under 18 years of age; [2001, c. 383, §119 (NEW); 2001, c. 383, §156 (AFF).]

B. At the time of the offense, the person has one or more prior convictions for any Class A, B or C offense under this chapter or for engaging in substantially similar conduct to that of the Class A, B or C offenses under this chapter in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this paragraph, the date of each prior conviction may precede the commission of the offense being enhanced by more than 10 years; [2007, c. 476, §40 (AMD).]

C. At the time of the offense, the person possesses a firearm in the furtherance of the offense, uses a firearm, carries a firearm or is armed with a firearm; or [2003, c. 476, §4 (AMD).]

D. Death or serious bodily injury is in fact caused by the use of that counterfeit drug. [2003, c. 476, §5 (NEW).]

[2007, c. 476, §40 (AMD) .]

2. Aggravated trafficking in or furnishing a counterfeit drug is a Class B crime.

[2001, c. 383, §119 (NEW); 2001, c. 383, §156 (AFF) .]

3. If a person uses a motor vehicle to facilitate the aggravated trafficking in or furnishing of a counterfeit drug, the court may, in addition to other authorized penalties, suspend the person's driver's license or permit, privilege to operate a motor vehicle or right to apply for or obtain a license for a period not to

exceed 5 years. A suspension may not begin until after any period of incarceration is served. If the court suspends a person's driver's license or permit, privilege to operate a motor vehicle or right to apply for or obtain a license, the court shall notify the Secretary of State of the suspension and the court shall take physical custody of the person's license or permit. The Secretary of State may not reinstate the person's driver's license or permit, privilege to operate a motor vehicle or right to apply for or obtain a license unless the person demonstrates that, after having been released and discharged from any period of incarceration that may have been ordered, the person has served the period of suspension ordered by the court.

[2001, c. 383, §119 (NEW); 2001, c. 383, §156 (AFF) .]

SECTION HISTORY

2001, c. 383, §119 (NEW). 2001, c. 383, §156 (AFF). 2001, c. 667, §D26 (AMD). 2001, c. 667, §D36 (AFF). 2003, c. 476, §§3-5 (AMD). 2007, c. 476, §40 (AMD).

§1105-C. AGGRAVATED FURNISHING OF SCHEDULED DRUGS

1. A person is guilty of aggravated furnishing of a scheduled drug if the person violates section 1106 and:

A. The person furnishes a scheduled drug to a child who is in fact less than 18 years of age and the drug is:

- (1) A schedule W drug. Violation of this subparagraph is a Class B crime;
- (2) A schedule X drug. Violation of this subparagraph is a Class C crime;
- (3) A schedule Y drug. Violation of this subparagraph is a Class C crime; or
- (4) A schedule Z drug. Violation of this subparagraph is a Class C crime; [2001, c. 383, §119 (NEW); 2001, c. 383, §156 (AFF).]

B. At the time of the offense, the person has one or more prior convictions for any Class A, B or C offense under this chapter or for engaging in substantially similar conduct to that of the Class A, B or C offenses under this chapter in another jurisdiction and the drug is:

- (1) A schedule W drug. Violation of this subparagraph is a Class B crime;
- (2) A schedule X drug. Violation of this subparagraph is a Class C crime;
- (3) A schedule Y drug. Violation of this subparagraph is a Class C crime; or
- (4) A schedule Z drug. Violation of this subparagraph is a Class C crime.

Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this paragraph, the date of each prior conviction may precede the commission of the offense being enhanced by more than 10 years; [2007, c. 476, §41 (AMD).]

C. [2001, c. 667, Pt. D, §36 (AFF); 2001, c. 667, Pt. D, §27 (RP).]

C-1. At the time of the offense, the person possesses a firearm in the furtherance of the offense, uses a firearm, carries a firearm or is armed with a firearm, and the drug is:

- (1) A schedule W drug. Violation of this subparagraph is a Class B crime;
- (2) A schedule X drug. Violation of this subparagraph is a Class C crime;
- (3) A schedule Y drug. Violation of this subparagraph is a Class C crime; or
- (4) A schedule Z drug. Violation of this subparagraph is a Class C crime; [2001, c. 667, Pt. D, §28 (NEW); 2001, c. 667, Pt. D, §36 (AFF).]

D. At the time of the offense, the person furnishes cocaine in a quantity of 112 grams or more or cocaine in the form of cocaine base in a quantity of 32 grams or more. Violation of this paragraph is a Class B crime; [2001, c. 383, §119 (NEW); 2001, c. 383, §156 (AFF).]

E. At the time of the offense, the person is on a school bus or within 1,000 feet of the real property comprising a private or public elementary or secondary school or a safe zone as defined in section 1101, subsection 23 and the drug is:

- (1) A schedule W drug. Violation of this subparagraph is a Class B crime;
- (2) A schedule X drug. Violation of this subparagraph is a Class C crime;
- (3) A schedule Y drug. Violation of this subparagraph is a Class C crime; or
- (4) A schedule Z drug. Violation of this subparagraph is a Class C crime.

For purposes of this paragraph, "school bus" has the same meaning as defined in Title 29-A, section 2301, subsection 5; [2005, c. 415, §3 (AMD).]

F. At the time of the offense, the person enlists or solicits the aid of or conspires with a child who is in fact less than 18 years of age to furnish a scheduled drug and the drug is:

- (1) A schedule W drug. Violation of this subparagraph is a Class B crime;
- (2) A schedule X drug. Violation of this subparagraph is a Class C crime;
- (3) A schedule Y drug. Violation of this subparagraph is a Class C crime; or
- (4) A schedule Z drug. Violation of this subparagraph is a Class C crime; [2001, c. 383, §119 (NEW); 2001, c. 383, §156 (AFF).]

G. At the time of the offense, the person furnishes methamphetamine in a quantity of 100 grams or more. Violation of this paragraph is a Class B crime; [2001, c. 667, Pt. D, §31 (AMD); 2001, c. 667, Pt. D, §36 (AFF).]

H. At the time of the offense, the person furnishes heroin in a quantity of 6 grams or more or 270 or more individual bags, folds, packages, envelopes or containers of any kind containing heroin. Violation of this paragraph is a Class B crime; [2001, c. 667, Pt. D, §31 (AMD); 2001, c. 667, Pt. D, §36 (AFF).]

I. At the time of the offense, the person furnishes 300 or more pills, capsules, tablets, vials, ampules, syringes or units containing any narcotic drug other than heroin, or any quantity of pills, capsules, tablets, units, compounds, mixtures or substances that, in the aggregate, contains 8,000 milligrams or more of oxycodone or 1,000 milligrams or more of hydromorphone. Violation of this paragraph is a Class B crime; [2003, c. 476, §6 (AMD).]

J. At the time of the offense, the person furnishes a quantity of 300 or more pills, capsules, tablets or units containing 3, 4-methylenedioxymethamphetamine, MDMA, or any other drug listed in section 1102, subsection 1, paragraph O. Violation of this paragraph is a Class B crime; [2003, c. 476, §6 (AMD).]

K. Death is in fact caused by the use of that scheduled drug and the drug is a schedule W drug. A violation of this paragraph is a Class B crime. It is an affirmative defense to prosecution under this paragraph that the drug furnished was lawfully possessed by the defendant prior to furnishing and that the death was not a reasonably foreseeable consequence of the use of that scheduled drug. In determining whether the death was reasonably foreseeable, the jury shall consider:

- (1) The factual circumstances surrounding the furnishing of the drug;
- (2) The total quantity of the drug furnished;
- (3) The dosage of the units furnished;
- (4) The nature of the drug;
- (5) The overdose risk presented by use of the drug; and

(6) Any safety warnings provided to the defendant at the time of dispensing the drug; or [2003 , c. 476 , §7 (NEW) .]

L. Serious bodily injury is in fact caused by the use of that scheduled drug and the drug is a schedule W drug. A violation of this paragraph is a Class C crime. It is an affirmative defense to prosecution under this paragraph that the drug furnished was lawfully possessed by the defendant prior to furnishing and that the serious bodily injury was not a reasonably foreseeable consequence of the use of that scheduled drug. In determining whether the serious bodily injury was reasonably foreseeable, the jury shall consider:

- (1) The factual circumstances surrounding the furnishing of the drug;
- (2) The total quantity of the drug furnished;
- (3) The dosage of the units furnished;
- (4) The nature of the drug;
- (5) The overdose risk presented by use of the drug; and
- (6) Any safety warnings provided to the defendant at the time of dispensing the drug. [2003 , c. 476 , §7 (NEW) .]

[2007 , c. 476 , §41 (AMD) .]

2. If a person uses a motor vehicle to facilitate the aggravated furnishing of a scheduled drug, the court may, in addition to other authorized penalties, suspend the person's driver's license or permit, privilege to operate a motor vehicle or right to apply for or obtain a license for a period not to exceed 5 years. A suspension may not begin until after any period of incarceration is served. If the court suspends a person's driver's license or permit, privilege to operate a motor vehicle or right to apply for or obtain a license, the court shall notify the Secretary of State of the suspension and the court shall take physical custody of the person's license or permit. The Secretary of State may not reinstate the person's driver's license or permit, privilege to operate a motor vehicle or right to apply for or obtain a license unless the person demonstrates that, after having been released and discharged from any period of incarceration that may have been ordered, the person has served the period of suspension ordered by the court.

[2001 , c. 383 , §119 (NEW); 2001 , c. 383 , §156 (AFF) .]

3. It is an affirmative defense to prosecution under this section that the substance furnished is industrial hemp.

[2003 , c. 61 , §4 (NEW) .]

SECTION HISTORY

2001 , c. 383 , §119 (NEW). 2001 , c. 383 , §156 (AFF). 2001 , c. 667 , §§D27,28,31, 32 (AMD). 2001 , c. 667 , §D36 (AFF). 2003 , c. 1 , §8 (AMD). 2003 , c. 61 , §4 (AMD). 2003 , c. 476 , §§6,7 (AMD). 2005 , c. 415 , §3 (AMD). 2007 , c. 476 , §41 (AMD).

§1105-D. AGGRAVATED CULTIVATING OF MARIJUANA

1. A person is guilty of aggravated cultivating of marijuana if the person violates section 1117 and:

A. At the time of the offense, the person has one or more prior convictions for any Class A, B or C offense under this chapter or for engaging in substantially similar conduct to that of the Class A, B or C offenses under this chapter in another jurisdiction and the person grows or cultivates:

- (1) Five hundred or more marijuana plants. Violation of this subparagraph is a Class A crime;

(2) One hundred or more but fewer than 500 marijuana plants. Violation of this subparagraph is a Class B crime;

(3) More than 5 but fewer than 100 marijuana plants. Violation of this subparagraph is a Class C crime; or

(4) Five or fewer marijuana plants. Violation of this subparagraph is a Class D crime.

Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this paragraph, the date of each prior conviction may precede the commission of the offense being enhanced by more than 10 years; [2007, c. 476, §42 (AMD) .]

B. [2001, c. 667, Pt. D, §36 (AFF); 2001, c. 667, Pt. D, §29 (RP) .]

B-1. At the time of the offense, the person possesses a firearm in the furtherance of the offense, uses a firearm, carries a firearm or is armed with a firearm, and the person grows or cultivates:

(1) Five hundred or more marijuana plants. Violation of this subparagraph is a Class A crime;

(2) One hundred or more but fewer than 500 marijuana plants. Violation of this subparagraph is a Class B crime;

(3) More than 5 but fewer than 100 marijuana plants. Violation of this subparagraph is a Class C crime; or

(4) Five or fewer marijuana plants. Violation of this subparagraph is a Class D crime; [2001, c. 667, Pt. D, §30 (NEW); 2001, c. 667, Pt. D, §36 (AFF) .]

C. At the time of the offense, the person enlists or solicits the aid of or conspires with a child who is in fact less than 18 years of age to cultivate marijuana and the person grows or cultivates:

(1) Five hundred or more marijuana plants. Violation of this subparagraph is a Class A crime;

(2) One hundred or more but fewer than 500 marijuana plants. Violation of this subparagraph is a Class B crime;

(3) More than 5 but fewer than 100 marijuana plants. Violation of this subparagraph is a Class C crime; or

(4) Five or fewer marijuana plants. Violation of this subparagraph is a Class D crime; or [2001, c. 383, §119 (NEW); 2001, c. 383, §156 (AFF) .]

D. At the time of the offense, the person is within 1,000 feet of the real property comprising a private or public elementary or secondary school or a safe zone as defined in section 1101, subsection 23 and the person grows or cultivates:

(1) Five hundred or more marijuana plants. Violation of this subparagraph is a Class A crime;

(2) One hundred or more but fewer than 500 marijuana plants. Violation of this subparagraph is a Class B crime;

(3) More than 5 but fewer than 100 marijuana plants. Violation of this subparagraph is a Class C crime; or

(4) Five or fewer marijuana plants. Violation of this subparagraph is a Class D crime. [2005, c. 415, §4 (AMD) .]

[2007, c. 476, §42 (AMD) .]

2. If a person uses a motor vehicle to facilitate the aggravated cultivating of marijuana, the court may, in addition to other authorized penalties, suspend the person's driver's license or permit, privilege to operate a motor vehicle or right to apply for or obtain a license for a period not to exceed 5 years. A suspension may not begin until after any period of incarceration is served. If the court suspends a person's driver's license or permit, privilege to operate a motor vehicle or right to apply for or obtain a license, the court shall notify the Secretary of State of the suspension and the court shall take physical custody of the person's license or permit.

The Secretary of State may not reinstate the person's driver's license or permit, privilege to operate a motor vehicle or right to apply for or obtain a license unless the person demonstrates that, after having been released and discharged from any period of incarceration that may have been ordered, the person has served the period of suspension ordered by the court.

[2001, c. 383, §119 (NEW); 2001, c. 383, §156 (AFF) .]

3. It is an affirmative defense to prosecution under this section that the substance cultivated or grown is industrial hemp.

[2003, c. 61, §5 (NEW) .]

SECTION HISTORY

2001, c. 383, §119 (NEW). 2001, c. 383, §156 (AFF). 2001, c. 667, §§D29,30 (AMD). 2001, c. 667, §D36 (AFF). 2003, c. 61, §5 (AMD). 2005, c. 415, §4 (AMD). 2007, c. 476, §42 (AMD).

§1106. UNLAWFULLY FURNISHING SCHEDULED DRUGS

1.

[2001, c. 383, §156 (AFF); 2001, c. 383, §120 (RP) .]

1-A. Except as provided in subsection 1-B, a person is guilty of unlawful furnishing of a scheduled drug if the person intentionally or knowingly furnishes what the person knows or believes to be a scheduled drug, which is in fact a scheduled drug, and the drug is:

A. A schedule W drug. Violation of this paragraph is a Class C crime; [2001, c. 383, §121 (NEW); 2001, c. 383, §156 (AFF).]

B. A schedule X drug. Violation of this paragraph is a Class D crime; [2001, c. 383, §121 (NEW); 2001, c. 383, §156 (AFF).]

C. A schedule Y drug. Violation of this paragraph is a Class D crime; or [2001, c. 383, §121 (NEW); 2001, c. 383, §156 (AFF).]

D. A schedule Z drug. Violation of this paragraph is a Class D crime. [2001, c. 383, §121 (NEW); 2001, c. 383, §156 (AFF).]

[2001, c. 383, §121 (NEW); 2001, c. 383, §156 (AFF) .]

1-B. A person is not guilty of unlawful furnishing of a scheduled drug if the conduct that constitutes the furnishing is expressly:

A. Authorized by Title 22 or Title 32; or [2001, c. 383, §121 (NEW); 2001, c. 383, §156 (AFF).]

B. Made a civil violation by Title 22. [2001, c. 383, §121 (NEW); 2001, c. 383, §156 (AFF).]

[2001, c. 383, §121 (NEW); 2001, c. 383, §156 (AFF) .]

2.

[2001, c. 383, §156 (AFF); 2001, c. 383, §122 (RP) .]

3. Proof that the person intentionally or knowingly possesses a scheduled drug that is in fact of a quantity, state or concentration as provided in this subsection, gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person is unlawfully furnishing that scheduled drug:

- A. More than 2 1/2 ounces of marijuana; [2009, c. 67, §1 (AMD).]
- B. Seven grams or more of cocaine or 2 grams or more of cocaine in the form of cocaine base; [1999, c. 531, Pt. I, §6 (AMD).]
- C. [1999, c. 531, Pt. I, §7 (RP).]
- D. Lysergic acid diethylamide in any of the following quantities or concentrations:
 - (1) Not less than 25 squares, stamps, tablets or units of any compound, mixture or substance containing a detectable quantity of lysergic acid diethylamide; or
 - (2) Any quantity of any compound, mixture or substance that, in the aggregate, contains not less than 1,250 micrograms of lysergic acid diethylamide; [2001, c. 419, §16 (AMD).]
- E. Seven grams or more of methamphetamine; [2001, c. 419, §17 (AMD).]
- F. Forty-five or more pills, capsules, tablets, vials, ampules, syringes or units containing any narcotic drug other than heroin; [2001, c. 419, §18 (NEW).]
- G. Any quantity of pills, capsules, tablets, units, compounds, mixtures or substances that, in the aggregate, contains not less than 400 milligrams of oxycodone or not less than 50 milligrams of hydromorphone; or [2001, c. 419, §18 (NEW).]
- H. Fifteen or more pills, capsules, tablets or units containing 3, 4 - methylenedioxymethamphetamine, MDMA, or any other drug listed in section 1102, subsection 1, paragraph O. [2001, c. 419, §16 (NEW).]

[2009, c. 67, §1 (AMD).]

4.

[1989, c. 334, §4 (RP).]

5. If a person uses a motor vehicle to facilitate the unlawful furnishing of a scheduled drug, the court may, in addition to other authorized penalties, suspend the person's driver's license, permit, privilege to operate a motor vehicle or right to apply for or obtain a license for a period not to exceed 5 years. A suspension may not begin until after any period of incarceration is served. If the court suspends a person's driver's license, permit, privilege to operate a motor vehicle or right to apply for or obtain a license, the court shall notify the Secretary of State of the suspension and the court shall take physical custody of the person's license. The Secretary of State may not reinstate the person's driver's license, permit, privilege to operate a motor vehicle or right to apply for or obtain a license unless the person demonstrates that, after having been released and discharged from any period of incarceration that may have been ordered, the person has served the period of suspension ordered by the court.

[1993, c. 674, §6 (NEW).]

6. It is an affirmative defense to prosecution under this section that the substance furnished is:

- A. Industrial hemp; or [2007, c. 346, Pt. B, §1 (NEW).]

B. A residual amount of any scheduled drug that is contained in one or more hypodermic apparatuses if the person is enrolled in a hypodermic apparatus exchange program that is certified by the Department of Health and Human Services, Maine Center for Disease Control and Prevention and is furnishing the hypodermic apparatuses to an employee of such a program. [2007, c. 346, Pt. B, §1 (NEW).]

[2007, c. 346, Pt. B, §1 (RPR) .]

SECTION HISTORY

1975, c. 499, §1 (NEW). 1987, c. 164, §§3,4 (AMD). 1987, c. 535, §§4,5 (AMD). 1989, c. 253, (AMD). 1989, c. 334, §4 (AMD). 1989, c. 344, §2 (AMD). 1989, c. 384, §3 (AMD). 1989, c. 600, §§A7,8 (AMD). 1989, c. 924, §12 (AMD). 1991, c. 548, §A11 (AMD). 1993, c. 674, §6 (AMD). 1995, c. 635, §5 (AMD). 1999, c. 422, §§7-9 (AMD). 1999, c. 453, §§11,12 (AMD). 1999, c. 531, §§I6,7 (AMD). 2001, c. 383, §§120-123 (AMD). 2001, c. 383, §156 (AFF). 2001, c. 419, §§16-18 (AMD). 2003, c. 61, §6 (AMD). 2007, c. 346, Pt. B, §1 (AMD). 2009, c. 67, §1 (AMD).

§1106-A. AGGREGATION OF AMOUNTS OF DRUGS SEIZED

1. Quantities of scheduled drugs involved in violations of section 1103, 1105-A, 1105-B, 1105-C or 1106 committed pursuant to one scheme or course of conduct and confiscated within a 6-month period may be aggregated to charge a single violation of appropriate class. Subject to the requirement that the conduct of the defense may not be prejudiced by lack of fair notice or by surprise, the court may at any time order that a single aggregate count be considered as separate violations. An aggregate count of violations may not be deemed duplicative because of such an order and no election may be required. Prosecution may be brought in any venue in which one of the violations aggregated was committed.

[2001, c. 383, §124 (AMD); 2001, c. 383, §156 (AFF) .]

2. Quantities of scheduled drugs involved in violation of section 1107-A committed pursuant to one scheme or course of conduct and confiscated within a 48-hour period may be aggregated to charge a single violation of appropriate class. Subject to the requirement that the conduct of the defense may not be prejudiced by lack of fair notice or by surprise, the court may at any time order that a single aggregate count be considered as separate violations. An aggregate count of violations may not be deemed duplicative because of such an order and no election may be required. Prosecution may be brought in any venue in which one of the violations aggregated was committed.

[2001, c. 383, §125 (AMD); 2001, c. 383, §156 (AFF) .]

SECTION HISTORY

1999, c. 442, §2 (NEW). 2001, c. 383, §§124,125 (AMD). 2001, c. 383, §156 (AFF).

§1107. UNLAWFUL POSSESSION OF SCHEDULED DRUGS

(REPEALED)

SECTION HISTORY

1975, c. 499, §1 (NEW). 1977, c. 649, §6 (AMD). 1981, c. 317, §24 (AMD). 1989, c. 384, §4 (AMD). 1989, c. 538, §§3,4 (AMD). 1995, c. 635, §6 (AMD). 1999, c. 422, §10 (AMD). 2001, c. 383, §156 (AFF). 2001, c. 383, §126 (RP).

§1107-A. UNLAWFUL POSSESSION OF SCHEDULED DRUGS

1. Except as provided in subsection 2, a person is guilty of unlawful possession of a scheduled drug if the person intentionally or knowingly possesses what that person knows or believes to be a scheduled drug, which is in fact a scheduled drug, and the drug is:

A. A schedule W drug that is:

- (1) Cocaine and the quantity possessed is more than 14 grams;
- (2) Cocaine in the form of cocaine base and the quantity possessed is more than 4 grams; or
- (3) Methamphetamine and the quantity possessed is more than 14 grams.

Violation of this paragraph is a Class B crime; [2001, c. 383, §127 (NEW); 2001, c. 383, §156 (AFF).]

B. A schedule W drug that contains:

- (1) Heroin (diacetylmorphine);
- (2) Cocaine in the form of cocaine base and at the time of the offense the person has one or more prior convictions for any offense under this chapter or for engaging in substantially similar conduct to that of the Maine offenses under this chapter in another jurisdiction. For the purposes of this paragraph, a person has been convicted of an offense on the date the judgment of conviction was entered by the court;
- (3) Methamphetamine;
- (4) Oxycodone;
- (5) Hydrocodone; or
- (6) Hydromorphone.

Violation of this paragraph is a Class C crime; [2007, c. 476, §43 (AMD).]

C. A schedule W drug, except as provided in paragraphs A and B. Violation of this paragraph is a Class D crime; [2001, c. 383, §127 (NEW); 2001, c. 383, §156 (AFF).]

D. A schedule X drug. Violation of this paragraph is a Class D crime; [2001, c. 383, §127 (NEW); 2001, c. 383, §156 (AFF).]

E. A schedule Y drug. Violation of this paragraph is a Class E crime; or [2001, c. 383, §127 (NEW); 2001, c. 383, §156 (AFF).]

F. A schedule Z drug. Violation of this paragraph is a Class E crime unless the drug is marijuana, in which case a violation of this paragraph is:

- (1) For possession of over 2 1/2 ounces to 8 ounces of marijuana, a Class E crime;
- (2) For possession of over 8 ounces to 16 ounces of marijuana, a Class D crime;
- (3) For possession of over one pound to 20 pounds of marijuana, a Class C crime; and
- (4) For possession of over 20 pounds of marijuana, a Class B crime. [2009, c. 67, §2 (AMD).]

[2009, c. 67, §2 (AMD).]

2. A person is not guilty of unlawful possession of a scheduled drug if the conduct that constitutes the possession is expressly:

A. Authorized by Title 22 or Title 32; or [2001, c. 383, §127 (NEW); 2001, c. 383, §156 (AFF).]

B. Made a civil violation by Title 22. [2001, c. 383, §127 (NEW); 2001, c. 383, §156 (AFF).]

[2001, c. 383, §127 (NEW); 2001, c. 383, §156 (AFF) .]

3. It is an affirmative defense to prosecution under this section that:

A. The substance possessed is industrial hemp; or [2005, c. 430, §4 (NEW); 2005, c. 430, §10 (AFF).]

B. The substance possessed is a methamphetamine precursor drug and was possessed by the defendant for a legitimate medical purpose. [2005, c. 430, §4 (NEW); 2005, c. 430, §10 (AFF).]

[2005, c. 430, §10 (AFF); 2005, c. 430, §4 (RPR) .]

4. It is an affirmative defense to prosecution under subsection 1, paragraph B, subparagraphs (3) to (6) and paragraphs C to F that the person possessed a valid prescription for the scheduled drug or controlled substance that is the basis for the charge and that, at all times, the person intended the drug to be used only for legitimate medical use in conformity with the instructions provided by the prescriber and dispenser.

[2011, c. 464, §19 (AMD) .]

5. It is an affirmative defense to prosecution under this section that the substance furnished is:

A. Industrial hemp; or [2007, c. 346, Pt. B, §2 (NEW).]

B. A residual amount of any scheduled drug that is contained in one or more hypodermic apparatuses if the person is enrolled in a hypodermic apparatus exchange program that is certified by the Department of Health and Human Services, Maine Center for Disease Control and Prevention and is transporting the hypodermic apparatuses to the program. [2007, c. 346, Pt. B, §2 (NEW).]

[2007, c. 346, Pt. B, §2 (NEW) .]

SECTION HISTORY

2001, c. 383, §127 (NEW). 2001, c. 383, §156 (AFF). 2003, c. 61, §7 (AMD). 2005, c. 252, §1 (AMD). 2005, c. 430, §4 (AMD). 2005, c. 430, §10 (AFF). 2005, c. 442, §1 (AMD). 2007, c. 55, §2 (AMD). 2007, c. 346, Pt. B, §2 (AMD). 2007, c. 476, §43 (AMD). 2009, c. 67, §2 (AMD). 2011, c. 464, §19 (AMD).

§1108. ACQUIRING DRUGS BY DECEPTION

1. A person is guilty of acquiring drugs by deception if, as a result of deception, the person obtains or exercises control over a prescription for a scheduled drug or what the person knows or believes to be a scheduled drug, which is in fact a scheduled drug, and the drug is:

A. A schedule W drug. Violation of this paragraph is a Class C crime; [2001, c. 667, Pt. A, §36 (AFF); 2001, c. 667, Pt. A, §35 (RPR).]

B. A schedule X drug. Violation of this paragraph is a Class C crime; [2001, c. 667, Pt. A, §36 (AFF); 2001, c. 667, Pt. A, §35 (RPR).]

C. A schedule Y drug. Violation of this paragraph is a Class C crime; or [2001, c. 667, Pt. A, §36 (AFF); 2001, c. 667, Pt. A, §35 (RPR).]

D. A schedule Z drug. Violation of this paragraph is a Class D crime. [2001, c. 667, Pt. A, §36 (AFF); 2001, c. 667, Pt. A, §35 (RPR).]

[2001, c. 667, Pt. A, §36 (AFF); 2001, c. 667, Pt. A, §35 (RPR) .]

2. As used in this section, "deception" has the same meaning as in section 354, subsection 2 and includes:

A. Failure by a person, after having been asked by a prescribing health care provider or a person acting under the direction or supervision of a prescribing health care provider, to disclose the particulars of every narcotic drug or prescription for a narcotic drug issued to that person by a different health care provider within the preceding 30 days; or [2001, c. 419, §19 (NEW).]

B. Furnishing a false name or address to a prescribing health care provider or a person acting under the direction or supervision of a prescribing health care provider. [2001, c. 419, §19 (NEW).]

[2001, c. 419, §19 (AMD) .]

3. For purposes of this section, information communicated to a prescribing health care provider, or a person acting under the direction or supervision of a prescribing health care provider, in an effort to violate this section, including a violation by procuring the administration of a scheduled drug by deception, may not be deemed a privileged communication.

[2007, c. 382, §1 (AMD) .]

4.

[2001, c. 383, §156 (AFF); 2001, c. 383, §129 (RP) .]

5. For purposes of the causation required by subsection 1, engaging in an act of deception described in subsection 2, paragraph A or B gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303, that the act of deception in fact resulted in the acquisition of any drugs prescribed to that person by that prescribing health care provider or person acting under the direction or supervision of that prescribing health care provider.

[2003, c. 143, §6 (AMD) .]

6. A prescribing health care provider, or a person acting under the direction or supervision of a prescribing health care provider, who knows or has reasonable cause to believe that a person is committing or has committed deception may report that fact to a law enforcement officer. A person participating in good faith in reporting under this subsection, or in participating in a related proceeding, is immune from criminal or civil liability for the act of reporting or participating in the proceeding.

[2007, c. 382, §2 (NEW) .]

SECTION HISTORY

1975, c. 499, §1 (NEW). 1979, c. 512, §33 (RPR). 1983, c. 350, (AMD). 2001, c. 383, §§128,129 (AMD). 2001, c. 383, §156 (AFF). 2001, c. 419, §§19,20 (AMD). 2001, c. 667, §A35 (AMD). 2001, c. 667, §A36 (AFF). 2003, c. 143, §6 (AMD). 2007, c. 382, §§1, 2 (AMD).

§1109. STEALING DRUGS

1. A person is guilty of stealing drugs if the person violates chapter 15, section 353, 355 or 356-A knowing or believing that the subject of the theft is a scheduled drug, and it is in fact a scheduled drug, and the theft is from a person authorized to possess or traffick in that scheduled drug.

[2003, c. 1, §9 (AMD) .]

2. Stealing drugs is:

A. A Class C crime if the drug is a schedule W, X or Y drug; or [2001, c. 419, §21 (NEW).]

B. A Class D crime if the drug is a schedule Z drug. [2001, c. 419, §21 (NEW).]

[2001, c. 419, §21 (AMD) .]

SECTION HISTORY

1975, c. 499, §1 (NEW). 2001, c. 383, §130 (AMD). 2001, c. 383, §156 (AFF). 2001, c. 419, §21 (AMD). 2001, c. 667, §D33 (AMD). 2001, c. 667, §D36 (AFF). 2003, c. 1, §9 (AMD).

§1110. TRAFFICKING IN OR FURNISHING HYPODERMIC APPARATUSES

1. Except as provided in subsection 1-B, paragraph A, a person is guilty of trafficking in hypodermic apparatuses if the person intentionally or knowingly trafficks in one or more hypodermic apparatuses. Violation of this subsection is a Class C crime.

A. [2001, c. 383, §156 (AFF); 2001, c. 383, §131 (RP).]

B. [1997, c. 340, §1 (RP).]

[2001, c. 383, §131 (AMD); 2001, c. 383, §156 (AFF) .]

1-A. Except as provided in subsection 1-B, paragraph B, a person is guilty of furnishing hypodermic apparatuses if the person intentionally or knowingly furnishes 11 or more hypodermic apparatuses. Violation of this subsection is a Class D crime.

[2001, c. 383, §132 (AMD); 2001, c. 383, §156 (AFF) .]

1-B. The following exceptions apply.

A. A person is not guilty of trafficking in hypodermic apparatuses if the conduct that constitutes the trafficking is expressly authorized by Title 32, section 13787-A. [2001, c. 383, §133 (NEW); 2001, c. 383, §156 (AFF).]

B. A person is not guilty of furnishing hypodermic apparatuses if the conduct that constitutes the furnishing is expressly authorized by Title 22, section 2383-B. [2001, c. 383, §133 (NEW); 2001, c. 383, §156 (AFF).]

[2001, c. 383, §133 (NEW); 2001, c. 383, §156 (AFF) .]

1-C. It is an affirmative defense to prosecution under subsection 1-A that the person furnishing the hypodermic apparatuses is enrolled in a hypodermic apparatus exchange program that is certified by the Department of Health and Human Services, Maine Center for Disease Control and Prevention and is furnishing the hypodermic apparatuses to an employee of such a program.

[2007, c. 695, Pt. A, §20 (AMD) .]

2.

[2001, c. 383, §156 (AFF); 2001, c. 383, §134 (RP) .]

SECTION HISTORY

1975, c. 499, §1 (NEW). 1987, c. 535, §6 (RPR). 1989, c. 384, §5 (AMD). 1997, c. 340, §1 (AMD). 2001, c. 383, §§131-134 (AMD). 2001, c. 383, §156 (AFF). 2007, c. 346, Pt. B, §3 (AMD). 2007, c. 695, Pt. A, §20 (AMD).

§1111. ILLEGAL POSSESSION OF HYPODERMIC APPARATUSES

1. A person is guilty of illegal possession of hypodermic apparatuses if the person intentionally or knowingly possesses 11 or more hypodermic apparatuses, unless the conduct that constitutes such possession is:

A. Expressly authorized by Title 22, section 2383-B or Title 32, section 13787-A. [1997, c. 340, §2 (AMD) .]

B. [1997, c. 340, §2 (RP) .]

[1997, c. 340, §2 (AMD) .]

2. Illegal possession of hypodermic apparatuses is a Class D crime.

[1997, c. 340, §2 (AMD) .]

3. It is an affirmative defense to prosecution under this section that the person possessing the hypodermic apparatuses is enrolled in a hypodermic apparatus exchange program that is certified by the Department of Health and Human Services, Maine Center for Disease Control and Prevention and is transporting the hypodermic apparatuses to the program.

[2007, c. 346, Pt. B, §4 (NEW) .]

SECTION HISTORY

1975, c. 499, §1 (NEW). 1975, c. 740, §103 (AMD). 1989, c. 384, §6 (AMD). 1997, c. 340, §2 (AMD). 2007, c. 346, Pt. B, §4 (AMD).

§1111-A. USE OF DRUG PARAPHERNALIA

1. As used in this section the term "drug paraphernalia" means all equipment, products and materials of any kind that are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a scheduled drug in violation of this chapter or Title 22, section 2383, except that this section does not apply to a person who is authorized to possess marijuana for medical use pursuant to Title 22, chapter 558-C, to the extent the drug paraphernalia is used for that person's medical use of marijuana. It includes, but is not limited to:

A. Kits used or intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a scheduled drug or from which a scheduled drug can be derived; [1981, c. 531, §2 (AMD) .]

B. Kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing scheduled drugs; [1981, c. 531, §2 (AMD) .]

C. Isomerization devices used or intended for use in increasing the potency of any species of plant that is a scheduled drug; [2001, c. 383, §135 (AMD); 2001, c. 383, §156 (AFF).]

D. Testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of scheduled drugs; [1981, c. 531, §2 (AMD).]

E. Scales and balances used or intended for use in weighing or measuring scheduled drugs; [1981, c. 531, §2 (AMD).]

F. Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or intended for use in cutting scheduled drugs; [1981, c. 531, §2 (AMD).]

G. Separation gins and sifters, used or intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana; [1981, c. 531, §2 (AMD).]

H. Blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding scheduled drugs; [1981, c. 531, §2 (AMD).]

I. Capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of scheduled drugs; [1981, c. 531, §2 (AMD).]

J. Containers and other objects used or intended for use in storing or concealing scheduled drugs; and [1981, c. 531, §2 (AMD).]

K. Objects used or intended for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

- (1) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;
- (2) Water pipes;
- (3) Carburetion tubes and devices;
- (4) Smoking and carburetion masks;
- (5) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand;
- (6) Miniature cocaine spoons and cocaine vials;
- (7) Chamber pipes;
- (8) Carburetor pipes;
- (9) Electric pipes;
- (10) Air-driven pipes;
- (11) Chillums;
- (12) Bongs; or
- (13) Ice pipes or chillers. [1981, c. 531, §3 (AMD).]

[2009, c. 1, §2 (AMD).]

2. For purposes of this section, drug paraphernalia does not include hypodermic apparatus. Possession of, furnishing or trafficking in hypodermic apparatus constitute separate offenses under sections 1110 and 1111.

[1981, c. 266, (NEW).]

3. In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors, the following:

- A. Statements by an owner or by anyone in control of the object concerning its use; [1981, c. 266, (NEW).]
- B. One or more prior convictions, if any, of an owner, or of anyone in control of the object, for any offense under this chapter or for engaging in substantially similar conduct to that of the Maine offenses under this chapter in another jurisdiction; [2007, c. 476, §44 (AMD).]
- C. The proximity of the object, in time and space, to a direct violation of this chapter; [1981, c. 266, (NEW).]
- D. The proximity of the object to scheduled drugs; [1981, c. 266, (NEW).]
- E. The existence of any residue of scheduled drugs on the object; [1981, c. 266, (NEW).]
- F. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom the owner knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter may not prevent a finding that the object is intended for use as drug paraphernalia; [2001, c. 383, §136 (AMD); 2001, c. 383, §156 (AFF).]
- G. Instructions, oral or written, provided with the object concerning its use; [1981, c. 266, (NEW).]
- H. Descriptive materials accompanying the object which explain or depict its use; [1981, c. 266, (NEW).]
- I. National and local advertising concerning its use; [1981, c. 266, (NEW).]
- J. The manner in which the object is displayed for sale; [1981, c. 266, (NEW).]
- K. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products; [1981, c. 266, (NEW).]
- L. Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise; [1981, c. 266, (NEW).]
- M. The existence and scope of legitimate uses for the object in the community; and [1981, c. 266, (NEW).]
- N. Expert testimony concerning its use. [1981, c. 266, (NEW).]

[2007, c. 476, §44 (AMD) .]

4.

[2011, c. 464, §20 (RP) .]

4-A. Except as provided in Title 22, chapter 558-C, a person is guilty of use of drug paraphernalia if:

A. The person trafficks in or furnishes drug paraphernalia knowing, or under circumstances when that person reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a scheduled drug in violation of this chapter or Title 22, section 2383, and the person to whom that person is trafficking or furnishing drug paraphernalia is:

(1) At least 16 years of age. Violation of this subparagraph is a Class E crime; or

(2) Less than 16 years of age. Violation of this subparagraph is a Class D crime; or [2011, c. 464, §20 (NEW).]

B. The person places in a newspaper, magazine, handbill or other publication an advertisement knowing, or under circumstances when that person reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects intended for use as drug paraphernalia. Violation of this paragraph is a Class E crime. [2011, c. 464, §20 (NEW) .]

[2011, c. 464, §20 (NEW) .]

4-B. Except as provided in Title 22, chapter 558-C, a person commits a civil violation if:

A. The person in fact uses drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a scheduled drug in violation of this chapter or Title 22, section 2383. Violation of this paragraph is a civil violation for which a fine of \$300 must be adjudged, none of which may be suspended; or [2011, c. 464, §20 (NEW) .]

B. The person possesses with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a scheduled drug in violation of this chapter or Title 22, section 2383. Violation of this paragraph is a civil violation for which a fine of \$300 must be adjudged, none of which may be suspended. [2011, c. 464, §20 (NEW) .]

[2011, c. 464, §20 (NEW) .]

5.

[2001, c. 383, §156 (AFF); 2001, c. 383, §138 (RP) .]

6.

[2001, c. 383, §156 (AFF); 2001, c. 383, §139 (RP) .]

7.

[2001, c. 383, §156 (AFF); 2001, c. 383, §140 (RP) .]

8.

[2001, c. 383, §156 (AFF); 2001, c. 383, §140 (RP) .]

9. Drug paraphernalia possessed in violation of this section is declared to be contraband and may be seized and confiscated by the State.

[2001, c. 383, §141 (AMD); 2001, c. 383, §156 (AFF) .]

10. It is an affirmative defense to prosecution under this section that the drug paraphernalia used or possessed is used or possessed for the propagation, cultivation or processing of industrial hemp.

[2003, c. 61, §8 (NEW) .]

SECTION HISTORY

1981, c. 266, (NEW). 1981, c. 531, §§1-5 (AMD). IB 1999, c. 1, §§4,5 (AMD). 2001, c. 383, §§135-141 (AMD). 2001, c. 383, §156 (AFF). 2003, c. 61, §8 (AMD). 2005, c. 386, §DD1 (AMD). 2005, c. 527, §§10,11 (AMD). 2007, c. 476, §44 (AMD). IB 2009, c. 1, §2 (AMD). RR 2009, c. 2, §39 (COR). 2011, c. 464, §20 (AMD).

§1112. ANALYSIS OF SCHEDULED DRUGS

1. A laboratory that receives a drug or substance from a law enforcement officer or agency for analysis as a scheduled drug shall, if it is capable of so doing, analyze the same as requested by a method designed to accurately determine the composition of the substance, including by chemical means, visual examination, or both, and shall issue a certificate stating the results of the analysis. The certificate, when duly signed and sworn to by a person certified as qualified for this purpose by the Department of Health and Human Services under certification standards set by that department, is admissible in evidence in a court of the State, and gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the composition, quality and quantity of the drug or substance are as stated in the certificate, unless, within 10 days written notice to the prosecution, the defendant requests that a qualified witness testify as to the composition, quality and quantity.

[2001, c. 667, Pt. D, §36 (AFF); 2001, c. 667, Pt. D, §34 (RPR); 2003, c. 689, Pt. B, §6 (REV) .]

2. Transfers of drugs and substances to and from a laboratory for purposes of analysis under this chapter may be by certified or registered mail, and when so made shall be deemed to comply with all the requirements regarding the continuity of custody of physical evidence.

[1975, c. 740, §105 (AMD) .]

3.

[1975, c. 740, §106 (RP) .]

SECTION HISTORY

1975, c. 499, §1 (NEW). 1975, c. 740, §§104-106 (AMD). 1979, c. 512, §34 (AMD). 2001, c. 383, §142 (AMD). 2001, c. 383, §156 (AFF). 2001, c. 419, §22 (AMD). 2001, c. 667, §D34 (AMD). 2001, c. 667, §D36 (AFF). 2003, c. 689, §B6 (REV).

§1113. INSPECTION OF RECORDS

(REPEALED)

SECTION HISTORY

1975, c. 499, §1 (NEW). 1977, c. 671, §26 (RPR). 1991, c. 274, §1 (RP).

§1114. SCHEDULE Z DRUGS; CONTRABAND SUBJECT TO SEIZURE

All scheduled Z drugs, the unauthorized possession of which constitutes a civil violation under Title 22, are hereby declared contraband, and may be seized and confiscated by the State. [1975, c. 499, §1 (NEW) .]

SECTION HISTORY

1975, c. 499, §1 (NEW).

§1115. NOTICE OF CONVICTION

On the conviction of any person of the violation of any provision of this chapter, or on his being found liable for a civil violation under Title 22, a copy of the judgment or sentence and of the opinion of the court or judge, if any opinion be filed, shall be sent by the clerk of court or by the judge to the board or officer, if any, by whom the person has been licensed or registered to practice his profession or to carry on his business if the court finds that such conviction or liability renders such person unfit to engage in such profession or business. The court may, in its discretion, suspend or revoke the license or registration of the person to

practice his profession or to carry on his business if the court finds that such conviction or liability renders such person unfit to engage in such profession or business. On the application of any person whose license or registration has been suspended or revoked and upon proper showing and for good cause, said board or officer may reinstate such license or registration. [1975, c. 470, §106-A (AMD).]

SECTION HISTORY

1975, c. 499, §1 (NEW). 1975, c. 740, §§106-A (AMD).

§1116. TRAFFICKING OR FURNISHING IMITATION SCHEDULED DRUGS

1. Except as provided in subsection 1-A, a person is guilty of trafficking in or furnishing an imitation scheduled drug if the person intentionally or knowingly trafficks in or furnishes an imitation scheduled drug to a person who is:

A. At least 18 years of age. Violation of this paragraph is a Class E crime; or [2001, c. 383, §143 (NEW); 2001, c. 383, §156 (AFF).]

B. Less than 18 years of age and the person trafficking or furnishing the imitation scheduled drug is at least 18 years of age. Violation of this paragraph is a Class D crime. [2001, c. 383, §143 (NEW); 2001, c. 383, §156 (AFF).]

[2001, c. 383, §143 (AMD); 2001, c. 383, §156 (AFF) .]

1-A. A person is not guilty of trafficking in or furnishing an imitation scheduled drug if the conduct that constitutes the trafficking or furnishing is expressly made a civil violation by Title 22, section 2383-A.

[2001, c. 383, §144 (NEW); 2001, c. 383, §156 (AFF) .]

2. Proof that the person intentionally or knowingly possesses 100 or more tablets, capsules or other dosage units of an imitation scheduled drug gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person is trafficking in or furnishing imitation scheduled drugs.

[2001, c. 383, §145 (AMD); 2001, c. 383, §156 (AFF) .]

3.

[2001, c. 383, §156 (AFF); 2001, c. 383, §146 (RP) .]

4.

[2001, c. 383, §156 (AFF); 2001, c. 383, §146 (RP) .]

5. In determining whether the appearance of a dosage unit of an imitation scheduled drug would lead a reasonable person to believe the substance was a scheduled drug, as required by section 1101, subsection 19, the court shall consider, but is not limited to considering, the following:

A. In the case of a substance in tablet, capsule or other solid form, whether the size, shape and color are substantially similar to that of a specific scheduled drug, and in the case of a substance in powdered or liquid form, whether the color, consistency and appearance are substantially similar to that of a specific scheduled drug; [1981, c. 603, §2 (NEW).]

B. Whether the markings on each dosage unit are substantially similar to those on a specific scheduled drug; and [1981, c. 603, §2 (NEW).]

C. Whether the packaging of, or the labeling of a container containing the substance, bears markings or printed material substantially similar to that accompanying or containing a specific scheduled drug. [1981, c. 603, §2 (NEW).]

[1981, c. 603, §2 (NEW) .]

6. This section does not apply to:

A. Law enforcement officers acting in the course and legitimate scope of their employment; [1981, c. 603, §2 (NEW).]

B. Persons who manufacture, process, package, distribute or sell imitation scheduled drugs solely for or to licensed medical practitioners for use as placebos in the course of professional practice or research; and [1981, c. 603, §2 (NEW).]

C. Licensed medical practitioners, pharmacists and other persons authorized to dispense or administer scheduled drugs who are acting in the legitimate performance of their professional licenses. [1981, c. 603, §2 (NEW).]

[2001, c. 383, §147 (AMD); 2001, c. 383, §156 (AFF) .]

SECTION HISTORY

1981, c. 603, §2 (NEW). 2001, c. 383, §§143-147 (AMD). 2001, c. 383, §156 (AFF).

§1117. CULTIVATING MARIJUANA

1. Except as provided in subsection 4, a person is guilty of cultivating marijuana if:

A. The person intentionally or knowingly grows or cultivates marijuana. Violation of this paragraph is a Class E crime; or [2009, c. 631, §2 (AMD); 2009, c. 631, §51 (AFF).]

B. The person violates paragraph A and the number of marijuana plants is:

(1) Five hundred or more. Violation of this subparagraph is a Class B crime;

(2) One hundred or more but fewer than 500. Violation of this subparagraph is a Class C crime;

(3) More than 5 but fewer than 100. Violation of this subparagraph is a Class D crime; or

(4) Five or fewer. Violation of this subparagraph is a Class E crime. [2001, c. 383, §148 (NEW); 2001, c. 383, §156 (AFF).]

[2009, c. 631, §2 (AMD); 2009, c. 631, §51 (AFF) .]

2.

[2001, c. 383, §156 (AFF); 2001, c. 383, §148 (RP) .]

3. It is an affirmative defense to prosecution under this section that the substance cultivated or grown is industrial hemp.

[2003, c. 61, §9 (NEW) .]

4. A person is not guilty of cultivating marijuana if the conduct is expressly authorized by Title 22, chapter 558-C.

[2009, c. 631, §3 (NEW); 2009, c. 631, §51 (AFF) .]

SECTION HISTORY

1999, c. 374, §5 (NEW). 2001, c. 383, §156 (AFF). 2001, c. 383, §148 (RPR). 2003, c. 61, §9 (AMD). 2009, c. 631, §§2, 3 (AMD). 2009, c. 631, §51 (AFF).

§1118. ILLEGAL IMPORTATION OF SCHEDULED DRUGS

1. A person is guilty of illegal importation of scheduled drugs if the person intentionally or knowingly brings, carries or transports a scheduled drug other than marijuana into the State from another state or country, unless the person is authorized to import or to possess the scheduled drug under Title 22 or Title 32 or under any law of the United States, of another state or of a foreign country.

[2001, c. 428, §1 (NEW) .]

2. A violation of this section is:

A. A Class C crime if the drug is a schedule W drug; and [2001, c. 428, §1 (NEW).]

B. A Class D crime if the drug is a schedule X, Y or Z drug. [2001, c. 428, §1 (NEW).]

[2001, c. 428, §1 (NEW) .]

SECTION HISTORY

2001, c. 428, §1 (NEW).

§1119. UNLAWFUL POSSESSION OF SYNTHETIC HALLUCINOGENIC DRUGS (REPEALED)

SECTION HISTORY

2011, c. 465, §6 (NEW). 2013, c. 194, §10 (RP).

§1120. UNLAWFUL TRAFFICKING IN SYNTHETIC HALLUCINOGENIC DRUGS (REPEALED)

SECTION HISTORY

2011, c. 465, §6 (NEW). 2013, c. 194, §10 (RP).

§1121. AGGRAVATED TRAFFICKING IN SYNTHETIC HALLUCINOGENIC DRUGS (REPEALED)

SECTION HISTORY

2011, c. 465, §6 (NEW). 2013, c. 194, §10 (RP).

§1122. UNLAWFULLY FURNISHING SYNTHETIC HALLUCINOGENIC DRUGS (REPEALED)

SECTION HISTORY

2011, c. 465, §6 (NEW). 2013, c. 194, §10 (RP).

§1123. AGGRAVATED FURNISHING OF SYNTHETIC HALLUCINOGENIC DRUGS

(REPEALED)

SECTION HISTORY

2011, c. 465, §6 (NEW). 2013, c. 194, §10 (RP).

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